

108TH CONGRESS  
2D SESSION

# S. 2837

To extend the period for COBRA coverage for victims of the terrorist attacks of September 11, 2001.

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## IN THE SENATE OF THE UNITED STATES

SEPTEMBER 23, 2004

Mr. KENNEDY (for himself, Mr. LAUTENBERG, Mrs. CLINTON, and Mr. SCHUMER) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

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## A BILL

To extend the period for COBRA coverage for victims of the terrorist attacks of September 11, 2001.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Continuing Care for  
5 Recovering Families Act”.

6 **SEC. 2. EXTENSION OF COBRA COVERAGE PERIOD FOR**  
7 **CERTAIN INDIVIDUALS.**

8 (a) ERISA AMENDMENT.—Section 605 of the Em-  
9 ployee Retirement Income Security Act of 1974 (29

1 U.S.C. 1165) is amended by adding at the end the fol-  
 2 lowing:

3 “(c) TEMPORARY EXTENSION OF COBRA ELECTION  
 4 AND COVERAGE PERIOD FOR VICTIMS OF TERRORIST AT-  
 5 TACKS.—

6 “(1) IN GENERAL.—In the case of an eligible  
 7 individual and notwithstanding subsection (a), such  
 8 individual may elect continuation coverage under  
 9 this part during the 120-day period that begins on  
 10 the later of—

11 “(A) the date of enactment of the Con-  
 12 tinuing Care for Recovering Families Act; or

13 “(B) the date on which the individual ex-  
 14periences the terrorism-related loss of coverage.

15 “(2) COMMENCEMENT OF COVERAGE; NO  
 16 REACH-BACK.—Any continuation coverage elected by  
 17 an eligible individual under paragraph (1) shall com-  
 18 mence at the beginning of the 120-day election pe-  
 19 riod described in such paragraph and shall not in-  
 20 clude any period prior to such 120-day election pe-  
 21 riod. In no event shall the maximum period required  
 22 under section 602(2)(A) be less than the period dur-  
 23 ing which the individual is an eligible individual.

1           “(3) PREEXISTING CONDITIONS.—With respect  
 2           to an individual who elects continuation coverage  
 3           pursuant to paragraph (1), the period—

4                   “(A) beginning on the date of the ter-  
 5                   rorism-related loss of coverage, and

6                   “(B) ending on the first day of the 120-  
 7                   day election period described in paragraph (1),  
 8           shall be disregarded for purposes of determining the  
 9           63-day periods referred to in section 701(c)(2), sec-  
 10          tion 2701(c)(2) of the Public Health Service Act,  
 11          and section 9801(c)(2) of the Internal Revenue Code  
 12          of 1986.

13           “(4) DEFINITIONS.—For purposes of this sub-  
 14          section:

15                   “(A) ELIGIBLE INDIVIDUAL.—The term  
 16                   ‘eligible individual’ means an individual who—

17                           “(i)(I) is the child of an individual de-  
 18                           scribed in section 405(c)(2) of the Sep-  
 19                           tember 11th Victim Compensation Fund of  
 20                           2001; or

21                           “(II) was the spouse of an individual  
 22                           described in section 405(c)(2) of the Sep-  
 23                           tember 11th Victim Compensation Fund of  
 24                           2001, on September 11, 2001;

1                   “(ii) has experienced a terrorism-re-  
2                   lated loss of coverage; and

3                   “(iii) is not otherwise covered under a  
4                   health benefits plan or entitled to benefits,  
5                   or enrolled, under part A of title XVIII of  
6                   the Social Security Act or enrolled under  
7                   part B of such title.

8                   “(B) TERRORISM-RELATED LOSS OF COV-  
9                   ERAGE.—The term ‘terrorism-related loss of  
10                  coverage’ means, with respect to an eligible in-  
11                  dividual, the loss of health benefits coverage as-  
12                  sociated with the death, injury, or loss of em-  
13                  ployment of an individual described in section  
14                  405(c)(2) of the September 11th Victim Com-  
15                  pensation Fund of 2001.”.

16               (b) PHSA AMENDMENT.—Section 2205 of the Public  
17               Health Service Act (42 U.S.C. 300bb–5) is amended by  
18               adding at the end the following:

19               “(c) TEMPORARY EXTENSION OF COBRA ELECTION  
20               AND COVERAGE PERIOD FOR VICTIMS OF TERRORIST AT-  
21               TACKS.—

22               “(1) IN GENERAL.—In the case of an eligible  
23               individual and notwithstanding subsection (a), such  
24               individual may elect continuation coverage under

1 this title during the 120-day period that begins on  
 2 the later of—

3 “(A) the date of enactment of the Con-  
 4 tinuing Care for Recovering Families Act; or

5 “(B) the date on which the individual ex-  
 6periences the terrorism-related loss of coverage.

7 “(2) COMMENCEMENT OF COVERAGE; NO  
 8 REACH-BACK.—Any continuation coverage elected by  
 9 an eligible individual under paragraph (1) shall com-  
 10mence at the beginning of the 120-day election pe-  
 11riod described in such paragraph and shall not in-  
 12clude any period prior to such 120-day election pe-  
 13riod. In no event shall the maximum period required  
 14under section 2202(2)(A) be less than the period  
 15during which the individual is an eligible individual.

16 “(3) PREEXISTING CONDITIONS.—With respect  
 17to an individual who elects continuation coverage  
 18pursuant to paragraph (1), the period—

19 “(A) beginning on the date of the ter-  
 20rorism-related loss of coverage, and

21 “(B) ending on the first day of the 120-  
 22day election period described in paragraph (1),  
 23shall be disregarded for purposes of determining the  
 2463-day periods referred to in section 2701(c)(2), sec-  
 25tion 701(c)(2) of the Employee Retirement Income

1 Security Act of 1974, and section 9801(c)(2) of the  
2 Internal Revenue Code of 1986.

3 “(4) DEFINITIONS.—For purposes of this sub-  
4 section:

5 “(A) ELIGIBLE INDIVIDUAL.—The term  
6 ‘eligible individual’ means an individual who—

7 “(i)(I) is the child of an individual de-  
8 scribed in section 405(c)(2) of the Sep-  
9 tember 11th Victim Compensation Fund of  
10 2001; or

11 “(II) was the spouse of an individual  
12 described in section 405(c)(2) of the Sep-  
13 tember 11th Victim Compensation Fund of  
14 2001, on September 11, 2001;

15 “(ii) has experienced a terrorism-re-  
16 lated loss of coverage; and

17 “(iii) is not otherwise covered under a  
18 health benefits plan or entitled to benefits,  
19 or enrolled, under part A of title XVIII of  
20 the Social Security Act or enrolled under  
21 part B of such title.

22 “(B) TERRORISM-RELATED LOSS OF COV-  
23 ERAGE.—The term ‘terrorism-related loss of  
24 coverage’ means, with respect to an eligible in-  
25 dividual, the loss of health benefits coverage as-

1           sociated with the death, injury, or loss of em-  
 2           ployment of an individual described in section  
 3           405(c)(2) of the September 11th Victim Com-  
 4           pensation Fund of 2001.”.

5           (c) IRC AMENDMENTS.—Paragraph (5) of section  
 6   4980B(f) of the Internal Revenue Code of 1986 (relating  
 7   to election) is amended by adding at the end the following:

8                   “(D) TEMPORARY EXTENSION OF COBRA  
 9           ELECTION AND COVERAGE PERIOD FOR VICTIMS  
 10          OF TERRORIST ATTACKS.—

11                   “(i) IN GENERAL.—In the case of an  
 12           eligible individual and notwithstanding  
 13           paragraph (1), such individual may elect  
 14           continuation coverage under this title dur-  
 15           ing the 120-day period that begins on the  
 16           later of—

17                   “(I) the date of enactment of the  
 18           Continuing Care for Recovering Fami-  
 19           lies Act; or

20                   “(II) the date on which the indi-  
 21           vidual experiences the terrorism-re-  
 22           lated loss of coverage.

23                   “(ii) COMMENCEMENT OF COVERAGE;  
 24           NO REACH-BACK.—Any continuation cov-  
 25           erage elected by an eligible individual

under clause (i) shall commence at the beginning of the 120-day election period described in such clause and shall not include any period prior to such 120-day election period. In no event shall the maximum period required under paragraph (2)(B)(i) be less than the period during which the individual is an eligible individual.

“(iii) PREEXISTING CONDITIONS.—

With respect to an individual who elects continuation coverage pursuant to clause (i), the period—

“(I) beginning on the date of the terrorism-related loss of coverage, and

“(II) ending on the first day of the 120-day election period described in clause (i),

shall be disregarded for purposes of determining the 63-day periods referred to in section 9801(c)(2), section 701(c)(2) of the Employee Retirement Income Security Act of 1974, and section 2701(c)(2) of the Public Health Service Act.

“(iv) DEFINITIONS.—For purposes of this subparagraph:



1 “(I) ELIGIBLE INDIVIDUAL.—

2 The term ‘eligible individual’ means  
3 an individual who—

4 “(aa)(AA) is the child of an  
5 individual described in section  
6 405(c)(2) of the September 11th  
7 Victim Compensation Fund of  
8 2001; or

9 “(BB) was the spouse of an  
10 individual described in section  
11 405(c)(2) of the September 11th  
12 Victim Compensation Fund of  
13 2001, on September 11, 2001;

14 “(bb) has experienced a ter-  
15 rorism-related loss of coverage;  
16 and

17 “(cc) is not otherwise cov-  
18 ered under a health benefits plan  
19 or entitled to benefits, or en-  
20 rolled, under part A of title  
21 XVIII of the Social Security Act  
22 or enrolled under part B of such  
23 title.

24 “(II) TERRORISM-RELATED LOSS  
25 OF COVERAGE.—The term ‘terrorism-

1 related loss of coverage' means, with  
2 respect to an eligible individual, the  
3 loss of health benefits coverage associ-  
4 ated with the death, injury, or loss of  
5 employment of an individual described  
6 in section 405(c)(2) of the September  
7 11th Victim Compensation Fund of  
8 2001.”.

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